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STATINTL

Spook Turns Writer

But His Old Boss, the CIA, Goes to Court, Says His New Book Would Spill Some Secrets

By Michael T. Malloy

Ballplayers leave baseball and write books about what's wrong with it. Soldiers leave the Army and write books about what's wrong with that. Victor Marchetti quit his job and sent an outline of a book about his old business to a New York publisher.

"Then last Tuesday the roof fell in," he said between court appearances last week. "Marshal Dillon and Chester came to the door and presented me with some legal papers. Being just an ordinary guy with three kids living in suburbia, I didn't know where to go for advice. I called my agent and hollered, 'Help!'"

Marchetti's publishing problem is that he used to work for the Central Intelligence Agency (CIA). The legal papers constituted a court order requiring him to clear anything he writes about intelligence matters, even fiction, with his old employer. If the order holds up in further court tests, it could give the Government a new way to plug "leaks" of classified information. Looked at another way, however, it could give the Government a powerful new tool for suppressing informed debate of its military and foreign policies.

ACLU Answers Call

"It's no less important than the Pentagon Papers case," says Melvin Wulf, legal director of the American Civil Liberties Union (ACLU), which immediately responded to Marchetti's call for legal help. "If they establish this precedent," Marchetti contends, "it means no Government employee who had access to classified information will be able to criticize the actions of the Government."

The Government's action grows out of a manuscript that Marchetti submitted to Esquire magazine and a book outline he sent to Alfred A. Knopf, Inc., a publishing house. A CIA agent obtained copies of both, and the agency went to court contending the works contained classified information whose publication would do "irreparable damage" to national security.

To knowingly transmit such information to anyone else, including a publisher, would seem to leave Marchetti open to prosecution under laws that prescribe a 10-year prison sentence for violators. But the Government made a different case. It noted that Marchetti had signed a secrecy agreement while with the CIA, promising not to reveal classified information without written permission from the agency.

From CIA: No Comment

The Government said this amounted to a legal contract. It contended that Marchetti violated the contract by sending his writings to a publisher. On this ground it obtained an injunction requiring him to clear his writings with the CIA 30 days before showing them to anyone else. If Marchetti violates the injunction, he can go to jail for contempt of court.

The Government's use of this circuitous route to head off a possible breach of security is unprecedented, lawyers say, with the possible exception of an obscure case during World War I. But it offers the Government a method to silence Marchetti without a difficult and time-consuming effort to prove that the information in his articles was damaging to national security. If the CIA's case holds up, it needs to prove only that he violated an agreement that he readily admits signing.

The CIA has a policy of taking its lumps in silence, so no spokesman was available to defend its position. But others familiar with the security laws said the laws paradoxically could require the agency to bring its secrets into open court in order to protect them, and that a prosecution could leave Marchetti free to write and speak for months on end as courts and juries made up their minds.

A Matter of Security

"Ex post facto action against unauthorized disclosure is always difficult," says retired Adm. Rufus L. Taylor, for whom Marchetti was executive assistant when Taylor was deputy director of the CIA. "You've always got to prove damage to the national security and sometimes even intent to damage national security."

To Marchetti and his ACLU lawyers, that is just the point. They say the breach-of-contract argument makes it possible for the Government to silence its critics without proving that they had endangered national security. They say the information in Marchetti's manuscripts did not present such a danger, and that the secrecy "contract" is legally unenforceable because it compels an employee to sign away his freedom of speech.

"A Government agency can still use classified information to support its policies and build its image," Marchetti argues. "When the military budget comes up, all this stuff about Russian missile whoppers comes out to support its position. It's leaked and nothing ever happens. But if somebody took the same informa-

tion to Jack Anderson to support the opposite position, they'd go to jail."

Marchetti didn't start out to be a crusader, and he still doesn't want to go to jail for the sake of civil liberties. He left the CIA after 14 years in 1969, at least partly because of the here-I-am-going-on-40-and-what-have-I-accomplished blues. He did believe the intelligence apparatus had become too big, too expensive, and too frozen in Cold War attitudes, but mostly, he says, he wanted to be a novelist.

Security vs. Image

He has since published one spy novel, *The Rope Dancer*, which he first showed to the CIA. ("Pretty trashy," says Admiral Taylor.) And he wrote one highly critical magazine article, which he didn't clear with the agency.

"In my opinion, this and other things Victor Marchetti says are damaging to the image of constituted authority, and it does no good to do things of this sort," Admiral Taylor says of the article. "But I personally perceived no outright security breach."

Marchetti suspects that the intelligence agency is more concerned about its image than any security breach in his new manuscripts, which Admiral Taylor hasn't seen.

"The CIA have been the golden boys of the Federal Government, the American James Bonds," Marchetti says. "Very few people have ever spoken out against them. This is a new experience for them and I guess they didn't like it."

"Look, I'm very reluctant to use the initials of the agency where I used to work," Marchetti frets, as he tries to describe his criticisms of the CIA without violating the court order.

Whipping the KGB

But in abstract terms, and trying to avoid any concrete examples that could put him in jail, he argues that the agency has succumbed to the mental inertia that afflicts any bureaucracy when it faces no outside pressure to change. "It's very hard for a bureaucracy to reform itself," he says.

Marchetti would like to see an intelligence system that was smaller, cheaper, more subject to congressional control, and less influenced by the military. He believes the CIA should stick to intelligence gathering and abandon political missions like those that helped overthrow governments in Iran and Guatemala, and involved the United States in a secret war in Laos.

"The CIA can take pride that the [Soviet] KGB's tail in many places and the dagger operation

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